



# **NATIONAL FOOTBALL LEAGUE**

## **POLICY ON PERFORMANCE-ENHANCING SUBSTANCES 2016**

**as agreed by the  
National Football League Players Association  
and the  
National Football League Management Council**

**EXHIBIT 2**

# NATIONAL FOOTBALL LEAGUE

## POLICY ON PERFORMANCE-ENHANCING SUBSTANCES

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## NATIONAL FOOTBALL LEAGUE POLICY ON PERFORMANCE-ENHANCING SUBSTANCES

### 1. GENERAL STATEMENT OF POLICY

The National Football League Management Council and NFL Players Association (“NFLPA”) (collectively, the “Parties”) have jointly developed this Policy on Performance-Enhancing Substances (the “Policy”) to prohibit and prevent the use of anabolic/androgenic steroids (including exogenous testosterone), stimulants, human or animal growth hormones, whether natural or synthetic, and related or similar substances. For convenience, these substances, as well as masking agents or diuretics used to hide their presence, will be referred to as “Prohibited Substances.”<sup>1</sup> These substances have no legitimate place in professional football. This Policy specifically means that:

- **Players**<sup>2</sup> may not, in the absence of a valid therapeutic use exemption (*see* Appendix I), have Prohibited Substances in their systems or supply or facilitate the distribution of Prohibited Substances to other Players.
- **Coaches, Athletic Trainers, Club Personnel, or Certified Contract Advisors** may not condone, encourage, supply, or otherwise facilitate in any way the use of Prohibited Substances.
- **Team Physicians** may not prescribe, supply, or otherwise facilitate a Player’s use of Prohibited Substances.
- **All Persons**, including Players, are subject to discipline for violation of this Policy.

The Parties are concerned with the use of Prohibited Substances based on three primary factors:

*First*, these substances threaten the fairness and integrity of the athletic competition on the playing field. Players may use these substances for the purpose of becoming bigger, stronger, and faster than they otherwise would be. As a result, their use threatens to distort the results of games and League standings. Moreover, Players who do not wish to use these substances may feel forced to do so in order to compete effectively with those who do. This is obviously unfair to those Players and provides sufficient reason to prohibit their use.

*Second*, the Parties are concerned with the adverse health effects of using Prohibited Substances. Although research is continuing, steroid use has been linked to a number of physiological, psychological, orthopedic, reproductive, and other serious health problems, including heart disease, liver cancer, musculoskeletal growth defects, strokes, and infertility.

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<sup>1</sup> The list of Prohibited Substances is attached to this Policy at Appendix A. If the Parties mutually agree to modify the Prohibited Substances under this Policy, the Parties will immediately amend the list at Appendix A.

<sup>2</sup> Unless specified otherwise herein, the term Player shall include the categories set forth in the Preamble to the Collective Bargaining Agreement as well as Players attending the annual scouting combines.

*Third*, the use of Prohibited Substances by Players sends the wrong message to young people who may be tempted to use them. NFL Players should not by their own conduct suggest that such use is either acceptable or safe, whether in the context of sports or otherwise.

The NFL Player Contract specifically prohibits the use of drugs in an effort to alter or enhance performance. The NFL Player Contract and the League's Constitution and Bylaws require each Player to avoid conduct detrimental to the NFL and professional football or to public confidence in the game or its Players. The use of Prohibited Substances violates both these provisions. In addition, the Commissioner is authorized to protect the integrity of and public confidence in the game. This authorization includes the authority to forbid use of the substances prohibited by this Policy.

The Parties recognize that maintaining competitive balance among NFL clubs requires that all NFL Players be subject to the same rules and procedures regarding drug testing. The rules and procedures set forth herein are designed to protect the confidentiality of information associated with this Policy and to ensure the accuracy of test results, and the Parties intend that the Policy meets or exceeds all applicable laws and regulations related thereto. The Parties also recognize the importance of transparency in the Policy's procedures, including the scientific methodologies that underlie the Policy, the appeals process and the basis for discipline imposed, and reaffirm their commitment to deterrence, discipline and a fair system of adjudication.

## **2. ADMINISTRATION OF THE POLICY**

### **2.1 Independent Administrator**

The Policy is conducted under the auspices of the NFL Management Council. It will be directed by the Independent Administrator on Performance-Enhancing Substances ("Independent Administrator"), a person or entity to be jointly selected by the Parties and for whose compensation (salary) the Parties shall have equal responsibility. Unless the Parties mutually determine otherwise, the Independent Administrator shall serve an initial one-year term, followed by a minimum three-year term. The Independent Administrator may be discharged by either Party at any time provided that written notice is given by the discharging party one year prior to discharge.

As soon as practicable, but no later than within six months of issuance of a notice of intent to discharge the Independent Administrator, the Parties will each identify a minimum of three successor candidates. The identified candidates will then be ranked by the Parties, the Chief Forensic Toxicologist and the Medical Advisor for the Policy and Program on Substances of Abuse. The top three candidates will be interviewed by the ranking group. Absent agreement on a successor, the Parties will alternately strike names from said list. The Party to strike a name first will be determined by the flip of a coin.

Subject to the terms of this Policy, the Independent Administrator shall have the sole discretion to make determinations, consistent with the terms of this Policy, concerning the:

- (a) method by which Players will be subjected to testing each week;
- (b) selection of Players to be tested each week and the dates on which tests will be

administered;

- (c) number and frequency of reasonable cause tests to be administered (subject to a maximum of 24 urine and/or blood tests per Player per year);
- (d) number and timing of off-season tests to be administered (subject to a maximum of six urine and/or blood tests per Player);
- (e) analysis of test results data over time;
- (f) scheduling of medical evaluations associated with the possible use of Prohibited Substances;
- (g) review and approval of “therapeutic use exemptions;”<sup>3</sup>
- (h) communication with and oversight of the Collection Vendor;
- (i) finding that a Player has failed to cooperate with testing, attempted to dilute, tamper with, or substitute a specimen to defeat testing, or otherwise violated protocols; and
- (j) certification of violations for disciplinary or administrative action.

In addition, the Independent Administrator will be available for consultation with Players and Club physicians; oversee the development of educational materials; participate in anti-doping research; and confer with the Chief Forensic Toxicologist.

Neither the NFL, the NFLPA, nor any NFL Member Club shall direct the specific testing schedule, decide which Players will be tested, or influence the Independent Administrator’s determination whether a potential violation has occurred and should be referred for further action.

The Independent Administrator (and any persons employed thereby) shall be a neutral party, and shall act in good faith and with equal obligation to the NFLPA and NFL. The Independent Administrator shall report equally, promptly and contemporaneously to both the NFLPA and NFL regarding all correspondence and relevant information, and seek guidance from both parties when exercising responsibilities under the Policy.

See Appendix B for further information on the Policy’s personnel.

## **2.2 Chief Forensic Toxicologist**

The Chief Forensic Toxicologist shall be jointly selected by the Parties, and the Parties shall have equal responsibility for his or her compensation (salary). Unless the Parties mutually determine otherwise, the Chief Forensic Toxicologist shall serve an initial one-year term, followed by a minimum three-year term. The Chief Forensic Toxicologist may be discharged by either Party at any time provided that written notice is given by the discharging party one year prior to discharge.

As soon as practicable, but no later than within six months of issuance of a notice of intent to discharge the Chief Forensic Toxicologist, the Parties will each identify a minimum of three successor candidates. The identified candidates will then be ranked by the Parties, the Independent Administrator and the Medical Advisor for the Policy and Program on Substances of Abuse, and the top three candidates will be interviewed by the ranking group. Absent agreement on a successor, the Parties alternately will strike candidates from said

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<sup>3</sup> See Appendix I.

list. The party to strike a name first will be determined by the flip of a coin.

Consistent with the terms of this Policy, the Chief Forensic Toxicologist shall:

- (a) audit the operation of the testing laboratories, including the implementation of procedures, laboratory analysis of specimens and documentation;
- (b) consult with the Independent Administrator and Collection Vendor as appropriate;
- (c) review and certify laboratory results; and
- (d) provide advice and consultation to the Parties in connection with other matters including existing and proposed analytical methods and anti-doping research.

At the request of either Party, and upon notice to and approval from the other Party, the Chief Forensic Toxicologist may direct laboratory analysis of sports nutrition products or other substances. The Chief Forensic Toxicologist shall ensure that the results of such analysis shall be made known promptly, equally and contemporaneously to both the NFL and NFLPA. The Chief Forensic Toxicologist may also request permission from the Parties to direct laboratory analysis of sports nutrition products or other substances, and upon approval from the Parties, direct such analysis. The Chief Forensic Toxicologist shall ensure that the results of such analysis shall be made known promptly, equally and contemporaneously to both the NFL and NFLPA.

The Chief Forensic Toxicologist (and any persons employed thereby) shall be a neutral party, and shall act in good faith and with equal obligation to the NFLPA and NFL. The Chief Forensic Toxicologist shall report equally, promptly and contemporaneously to both the NFLPA and NFL regarding all correspondence and relevant information, and seek guidance from both parties when exercising responsibilities under the Policy.

See Appendix B for further information on the Policy's personnel.

### **2.3 Collection Vendor**

The NFL and NFLPA shall jointly agree upon a Collection Vendor to be responsible for specimen collection, storage and transportation to the designated laboratory. The Collection Vendor's written protocols and chain-of-custody documents must ensure that best practices are utilized at all times in a manner consistent with generally accepted scientific principles relevant to the collection and storage of the types of substances tested for under this Policy. These collection protocols and chain-of-custody documents shall be reviewed and approved annually by the Parties, the Chief Forensic Toxicologist and Independent Administrator and may not be changed without approval of both Parties. Once approved, if the Chief Forensic Toxicologist or Independent Administrator seeks to make any additional modifications, he or she must immediately inform the Parties.

The Collection Vendor shall implement a training and certification process for all employees or agents involved in the collection of any sample under this Policy. For serum (blood) collection, such employee or agent of the Collection Vendor must be a properly trained and experienced phlebotomist with the appropriate certifications to draw blood under applicable laws and regulations. Upon request of either Party, the Collection Vendor shall provide the Parties with all information regarding its training and certification processes.

## 2.4 Accounting

Any service provider whose fees are shared by the Parties shall have an agreement setting forth with specificity the services being provided, the persons providing the services and any related fees or costs. The providers for which the NFLPA will equally share the salary costs are the Independent Administrator and the Chief Forensic Toxicologist. The Parties will equally share the costs and fees of the independent arbitrators. Each provider will periodically furnish the Parties with an itemization of the services provided and fees incurred. In addition, the NFL Management Council will provide on an annual basis documentation verifying that all fines imposed under the Policy were applied to the costs of the Policy.

## 3. TESTING FOR PROHIBITED SUBSTANCES

### 3.1 Types of Testing

All testing of Players for Prohibited Substances, including any pre-employment testing, is to be conducted pursuant to this Policy. All specimens will be collected by an authorized specimen collector under the authority of the Collection Vendor and analyzed at the appropriate laboratory (see Sections 3.2 and 3.4). As is the case in the employment setting, Players testing positive in a pre-employment setting will be subject to medical evaluation and clinical monitoring as set forth in Sections 3.1 and 4.3, and to the disciplinary steps outlined in Section 6.

Urine testing will take place under the following circumstances:

**Pre-Employment:** Pre-employment tests may be administered to free agent Players (whether rookies or veterans). In addition, testing will be conducted at the annual scouting combines.

**Annual:** All Players will be tested for Prohibited Substances at least once per League Year. Such testing will occur at training camp or whenever the Player reports thereafter, and will be deemed a part of his preseason physical.

**Preseason/Regular Season:** Each week during the preseason and regular season, ten (10) Players on every Club will be tested. By means of a computer program, the Independent Administrator will randomly select the Players to be tested from the Club's active roster, practice squad list, and reserve list who are not otherwise subject to ongoing reasonable cause testing for performance-enhancing substances. The number of Players selected for testing on a particular day will be determined in advance on a uniform basis. Players will be required to provide a specimen whenever they are selected, without regard to the number of times they have previously been tested consistent with the limits set forth in the Policy.

**Postseason:** Ten (10) Players on every Club qualifying for the playoffs will be tested weekly so long as the Club remains active in the postseason. Players to be tested during the postseason will be selected on the same basis as during the regular season.

**Off-Season:** Players under contract who are not otherwise subject to reasonable cause testing may be tested during the off-season months at the discretion of the Independent Administrator, subject to the collectively bargained maximum of six (including blood tests) off-season tests. Players to be tested in the off-season will be selected on the same basis



Administrator (subject to the collectively-bargained maximum of 24 urine and/or blood tests per Player per year).

Players who test positive under this Section will be subject to discipline as set forth in Sections 3, 6 and 12 of the Policy.

Before discipline is imposed, Players will have the appeal rights set forth in Sections 10 and 11 of the Policy.

## **8. MASKING AGENTS AND SUPPLEMENTS**

The use of so-called “blocking” or “masking” agents is prohibited by this Policy. These include diuretics or water pills, which have been used in the past by some Players to reach an assigned weight.

In addition, a positive test will not be excused because it results from the use of a dietary supplement, rather than from the intentional use of a Prohibited Substance. Players are responsible for what is in their bodies. For more information concerning dietary supplements, see Appendices D and E.

## **9. ARBITRATION PANEL; APPEALS SETTLEMENT COMMITTEE**

All appeals under Section 6 of this Policy shall be heard by third-party arbitrators not affiliated with the NFL, NFLPA or Clubs.

The Parties shall jointly select and be equally responsible for compensating no fewer than three but no more than five arbitrators to act as hearing officers for appeals under Section 6 of this Policy. Such arbitrators shall have appropriate expertise in matters under this Policy and shall be active members in good standing of a state bar. Unless the Parties mutually determine otherwise, each arbitrator shall serve a minimum two-year term, after which he or she may be discharged by either Party upon written notice to the arbitrator and other Party. The arbitrators’ fees and expenses shall be shared equally by the Parties.

The selected group of arbitrators shall designate one of its members to be the Notice Arbitrator, who also will be responsible for assignment of the appeals. Prior to the first preseason game, the Notice Arbitrator will ensure that at least one arbitrator is assigned to cover every Tuesday of the Playing Season through the Super Bowl. Appeals will automatically be assigned to the arbitrator assigned to cover the fourth Tuesday following the date on which the Player is notified of discipline. During the off-season, the Notice Arbitrator shall assign appeals on a rotating basis such that a hearing may be scheduled within thirty (30) days of the issuance of the notice of discipline.

An Appeals Settlement Committee consisting of the NFL Commissioner and the NFLPA Executive Director or their respective designees shall have authority to resolve any appeal under this Policy, which resolution shall be final and binding. Should the NFLPA believe that “extraordinary circumstances” exist which warrant reduced or vacated discipline, the Executive Director may raise them with the Commissioner. Consideration of an appeal by the Appeals Settlement Committee shall not in any way delay the appeals procedures outlined in this Policy, and no appeal may be resolved by the Appeals Settlement Committee once a decision on the appeal has been issued.



## APPENDIX B

### Personnel

The Independent Administrator of the NFL Policy on Performance-Enhancing Substances is Dr. John Lombardo, who was previously Professor and Chair of the Department of Family Medicine at the Ohio State University College of Medicine, Medical Director of Ohio State University Sports Medicine, and Head Team Physician for the Ohio State University Athletic Department. He is currently a member of the World Anti-Doping Agency Therapeutic Use Exemption Expert Group. He also was previously a member of the faculty at the Sports Medicine Center of the Cleveland Clinic and has served as team physician to the Cleveland Cavaliers of the NBA and as an advisor on steroid issues to both the NCAA and the U.S. Olympic Committee.

Pursuant to agreement of the Parties, on an interim basis, the function and designated responsibilities of the Chief Forensic Toxicologist shall be performed by the Directors of the UCLA Olympic Laboratory and the Sports Medicine Research and Testing Laboratory.

The Parties agree that the roles and responsibilities of the Independent Administrator and Chief Forensic Toxicologist are intended to provide expert medical and scientific oversight of testing procedures to ensure that NFL Players receive the highest level of protection permitted in the administration of the Policy.